

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #3	CCRB Case #: 201804602	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 05/25/2018 1:30 PM	Location of Incident: 5 West Burnside Avenue	Precinct: 46	18 Mo. SOL 11/25/2019	EO SOL 11/25/2019	
Date/Time CV Reported	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 06/08/2018 11:02 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Christopher Riccio	17103	961164	046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Davit Osmanovic	18417	955283	046 PCT
2. POM Ermir Aliaj	18857	959452	046 PCT
3. SGT Patrick Fyvie	3501	938513	046 PCT
4. POM Ramon Garcia	16636	960576	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Christopher Riccio	Force: Police Officer Christopher Riccio used physical force against § 87(2)(b)	

Case Summary

On May 31, 2018, § 87(2)(b) filed this complaint with IAB (log no. 2018-21683) (**01 Board Review**). This complaint was subsequently received by the CCRB on June 8, 2018.

On May 25, 2018, at approximately 1:30 PM, § 87(2)(b) completed a transaction inside of the Chase Bank, located at 5 West Burnside Avenue in the Bronx. § 87(2)(b) exited the bank and began walking home, but went back to the bank shortly after, because he remembered he left his transaction receipt. When § 87(2)(b) attempted to re-enter the bank, a police officer standing at the door told him that nobody was allowed inside, because the NYPD was arresting someone. § 87(2)(b) stood by the door and waited. As officers walked § 87(2)(b) out of the bank, an officer allegedly elbowed § 87(2)(b) in the stomach and said, “Thanks for standing there, bud” (**Allegation A: Force, § 87(2)(g)**). § 87(2)(b) later went to the 46th Precinct stationhouse and received an AIDED report in regards to his complaint that an officer elbowed him in the stomach.

The investigation obtained surveillance video from Chase Bank in regards to this complaint (**09 Board Review**). See the allegation below for corresponding footage.

No arrests were made or summonses issued in regards to § 87(2)(b)'s complaint, but this incident transpired as a result of § 87(2)(b) arrest, who was charged with § 87(2)(b) (13 Board Review).

Findings and Recommendations

Allegation (A) Physical Force: Police Officer Christopher Riccio used physical force against

§ 87(2)(b) (**04 Board Review**) stated that he went to Chase Bank, located at 5 West Burnside Avenue, and withdrew \$100 from an ATM inside of the bank. After § 87(2)(b) completed his transaction, he exited the bank and began walking home. Shortly after leaving the bank, § 87(2)(b) realized that he had forgotten the receipt of his transaction at the ATM, so he turned around and walked back to the bank. When § 87(2)(b) arrived back at the bank, an officer told him to wait five minutes to go inside because the police were arresting someone inside of the bank. § 87(2)(b) stepped away from the door, and stood pressed against the railing of the handicap ramp outside of the bank. Approximately five minutes later, three officers, identified by the investigation as PO Riccio, PO Garcia, and Sgt. Fyvie exited the bank, walking a man in handcuffs, identified by the investigation as § 87(2)(b). PO Garcia and Sgt. Fyvie were on the left side of § 87(2)(b) and PO Riccio was standing on the right side, closest to § 87(2)(b). § 87(2)(b) was being compliant, and walking with the officers without struggle. As PO Riccio walked by § 87(2)(b) he raised his right arm to his left shoulder, and brought his right arm down, elbowing § 87(2)(b) in his stomach. PO Riccio said, “Thanks for standing there, bud.” § 87(2)(b) did not respond to PO Riccio. PO Riccio maintained eye contact with § 87(2)(b) as he walked § 87(2)(b) down the ramp, and into a police vehicle.

§ 87(2)(b) was unavailable to the investigation (**16 Board Review**), and thus did not provide a statement.

PO Osmanovic was § 87(2)(b)'s arresting officer. PO Osmanovic (**05 Board Review**) stated that he did not escort § 87(2)(b) out of the bank, and was inside of the bank, away from view of the ramp or front entrance, speaking to the bank security guard inside of the bank. PO Osmanovic later created an AIDED report (**03 Board Review**) in regards to § 87(2)(b)'s complaint that an officer had elbowed him, causing chest pain. PO Osmanovic did this under instruction by the desk sergeant, Sgt. Gonzalez, because § 87(2)(b) had come to the stationhouse to complain. PO Osmanovic did not elbow § 87(2)(b) in his stomach or otherwise use force against § 87(2)(b). § 87(2)(b) did not see § 87(2)(b) at the bank, and did not see any officer use force against § 87(2)(b).

Sgt. Fyvie (**06 Board Review**) stated that he responded for a call put out by Sector E, for additional units to respond to 5 West Burnside Avenue, regarding an EDP, § 87(2)(b) at the location who had menaced a security guard with a knife. The location was a Chase Bank. Sgt. Fyvie responded to the location with PO Asare. Sgt. Fyvie's assigned partner, PO Velez, did not respond to the location. Sgt. Fyvie and PO Asare entered the bank. Sgt. Fyvie saw PO Riccio, PO Garcia, PO Torres, and PO Soreca. PO Riccio and PO Garcia were standing around § 87(2)(b), who was handcuffed. § 87(2)(b) appeared to be intoxicated, and was flailing his body around and trying to walk away from PO Riccio and PO Garcia. PO Riccio and PO Garcia walked § 87(2)(b) out of the bank and outside, to be transported. Sgt. Fyvie followed behind them. PO Torres may have followed behind Sgt. Fyvie, but Sgt. Fyvie did not know for sure, and did not have any conversation with PO Torres during this time. When PO Riccio and PO Garcia reached the front door of the bank, § 87(2)(b) attempted to get away, and PO Riccio and PO Garcia placed him against a wall, before continuing down the ramp. Sgt. Fyvie followed after PO Riccio, PO Garcia, and § 87(2)(b) down the ramp. Sgt. Fyvie did not elbow § 87(2)(b) as he walked down the ramp, nor did he see any other officer do so. Sgt. Fyvie did not hear any civilians complain at the bank that any officer used force against them.

PO Riccio (**07 Board Review**) and PO Garcia (**08 Board Review**) provided statements largely consistent with each other. PO Riccio and PO Garcia responded to 5 West Burnside Avenue to back Sector E, regarding a fight inside of the bank. When PO Riccio and PO Garcia arrived, they handcuffed § 87(2)(b). PO Garcia stated that both he and PO Riccio walked § 87(2)(b) out of the bank. PO Riccio stated that PO Garcia walked § 87(2)(b) out of the bank, and that he walked along with PO Garcia and § 87(2)(b) and may have physically assisted PO Garcia in walking § 87(2)(b). No other officers assisted PO Riccio and PO Garcia in walking § 87(2)(b) out of the bank. Sgt. Fyvie walked behind PO Riccio and PO Garcia as § 87(2)(b) was walked out of the bank. PO Riccio and PO Garcia did not elbow § 87(2)(b) as they walked down the ramp, and did not see any other officer do so. PO Riccio and PO Garcia did not have any verbal interaction with civilians at the bank except for § 87(2)(b), and did not tell any civilian, "Thanks for standing there, bud." PO Garcia and PO Riccio were shown a photograph of § 87(2)(b) and did not recall seeing him at the bank. PO Garcia later learned who § 87(2)(b) was, because the desk sergeant, Sgt. Gonzalez, told him that § 87(2)(b) had come in to complain about chest pain.

Surveillance footage (**09 Board Review**), labeled below as “Exit,” shows officers walking § 87(2)(b) out of the bank. The footage has no audio. At :18, § 87(2)(b) is shown outside of the bank, attempting to enter through the front door. He is pictured wearing a white t-shirt. An officer standing at the door motions to § 87(2)(b) to stand back, and § 87(2)(b) acquiesces. As § 87(2)(b) steps back, he is no longer visible in the video, because he is blocked by the vestibule wall. At :19, a group of officers walk § 87(2)(b) also pictured in a white t-shirt, out of the bank. At :30, § 87(2)(b) is briefly pushed against the vestibule wall directly outside of the door. The door closes behind the group of officers and § 87(2)(b) at :40. Because a view of § 87(2)(b) is obstructed by a wall, the video does not show which, if any, officer made physical contact with § 87(2)(b) as § 87(2)(b) was walked down the ramp.



Exit.mp4

§ 87(2)(b) stated that three officers walked § 87(2)(b) out of the bank. PO Riccio, PO Garcia, and Sgt. Fyvie stated that they were the officers closest to § 87(2)(b) as he was walked out of the bank. § 87(2)(b) described the officer who elbowed him as a white male, skinny, tall, in his mid 20’s, and wearing a uniform, and taller than the other two officers. PO Riccio is a white male who is 5’10” tall, 170 pounds, and § 87(2)(b)-old. PO Garcia is a dark skinned Hispanic male. Sgt. Fyvie is a white male who is 5’6” tall, and § 87(2)(b)-old. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

TRI’s prepared by PO Riccio (**11 Board Review**) and PO Garcia (**10 Board Review**) show that they were the officers who walked § 87(2)(b) out of the bank and to the police vehicle. The TRI’s state that PO Riccio and PO Garcia placed § 87(2)(b) against a wall.

§ 87(2)(g)

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Civilian and Officer CCRB Histories

- PO Riccio has been a member of service for three years, and has no previous allegations.
- This is the first CCRB complaint to which § 87(2)(b) has been party (**14 Board Review**).

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of criminal convictions in New York City within the last ten years (**12 Board Review**).

Squad No.: 3

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date